

General Information Letter: Due dates for electronic funds transfer payments explained.

December 1, 1999

Dear:

This is in response to your telephone inquiry of November 30, 1999, in which you requested a letter ruling. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In our telephone conversations we discussed the following situation:

An employer is required to make payments by electronic funds transfer. The employer issues payroll checks on the seventh day of the month. More than \$1,000 is withheld. On the eighth day of the month, the employer issues a final payroll check to an employee who is quitting. More than \$1,000 is withheld from that check.

In addition, you asked the significance of the listing of Federal Reserve Bank holidays on the EFT-9, Electronic Funds Transfer Observed Holidays.

### **Response**

Section 704(b) of the Illinois Income Tax Act (the "IITA"; 35 ILCS 5/101 et seq.) provides in part:

Every employer who deducts and withholds or is required to deduct and withhold tax under this Act shall, on or before the third banking day following the close of a quarter monthly period, pay to the Department or to a depository designated by the Department, pursuant to regulations prescribed by the Department, the taxes so required to be deducted and withheld, whenever the aggregate amount withheld by such employer (together with amounts previously withheld and not paid to the Department) exceeds \$1,000. For purposes of this Section, Saturdays, Sundays, legal holidays and local bank holidays are not banking days. A quarter monthly period, for purposes of this subsection, ends on the 7th, 15th, 22nd and last day of each calendar month.

Because the employer has withheld more than \$1,000 from its employees' payroll paid on the seventh day of the month, it must deposit all taxes withheld from its employees and not previously paid by the third banking day following the last day of the quarter monthly period. The last day of the quarter monthly period is also the seventh of the month, and the first date on which payment could be due would therefore be the tenth of the month.

As a result of the amount withheld on the eighth of the month, the employer will have also withheld more than \$1,000 during the second quarter monthly period, which ends on the fifteenth day of the month. Accordingly, the employer will be required to deposit the amount withheld on the eighth day of the month, plus any additional amounts subsequently withheld through and including the fifteenth day of the month, by the third banking day after the fifteenth of the month. Thus, the first date on which deposit of the amount withheld on the eighth of the month would be due would be the eighteenth of the month.

With regard to the EFT-9, that does not actually prescribe the due dates for payments. Instead, that form states that:

To determine the due date of your payment, see Booklet EFT-6, Electronic Funds Transfer Guide.

The EFT-6 provides in relevant part:

**Due date is on or after a weekend or holiday**

If the statutory due date is **on or after** a weekend or an observed holiday, your payment is due the **next** business banking day following the weekend or holiday. **You must complete your payment transaction on or before the last banking day before the weekend or holiday.**

This statement is consistent with Section 704(b) of the IITA, quoted above. As noted in the EFT-9, its purpose is to advise employers which holidays are observed in Illinois, and are therefore not "banking days" within the meaning of Section 704(c). The listing of Federal Reserve Bank holidays is for purposes of advising the employer on when it must initiate an electronic funds transfer in order for payment to be received by the Department of Revenue on a particular date.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Paul S. Caselton  
Deputy Chief Counsel -- Income Tax